

**OKLAHOMA ATTORNEY GENERAL
ENVIRONMENTAL PROTECTION UNIT**

REQUEST FOR PROPOSAL

RFP NUMBER: 2002-EPU-01
INQUIRIES DUE: January 16, 2003
CLOSING DATE: January 23, 2003
SHIP TO: TRENT CORKEN, OFFICE ADMINISTRATOR
OKLAHOMA ATTORNEY GENERAL
2300 N. LINCOLN BOULEVARD, SUITE 112
OKLAHOMA CITY, OK 73105

DESCRIPTION: Professional Services Contract to provide legal representation, including case preparation, management and litigation, to the State of Oklahoma in environmental protection cause of action involving pollution of interstate waters by land application of poultry waste. Proposals must contain a proposed contingency fee agreement that is consistent with the criteria described further in the RFP. Proposals must include a schedule which details the method for calculating fees and expenses which includes the applicable hourly rate of each attorney, paralegal, legal assistant, or other persons providing services under this proposal. To be considered for this legal services contract, potential providers shall include a statement of qualifications that includes details of the firm's expertise in the areas of water pollution and agency law. The statement of qualifications shall include a curriculum vitae for the firm and individual attorneys which sets forth specialized experience and professional capabilities; capacity to handle detailed and voluminous work; jurisdictions in which licensed to practice; and such other information as may be appropriate for evaluation of the proposed legal services. The Office of Attorney General will negotiate a contract for legal services based on demonstrated competence and qualification of prospective outside legal professionals to perform the services at a fair and reasonable price. The Office of Attorney General reserves the right to reject any proposal and shall not be obligated to retain the services of any Offeror.

TO REQUEST A COPY OF THE REQUEST FOR PROPOSAL, PLEASE CONTACT TRENT CORKEN VIA FACSIMILE AT (405) 521-6246 OR E-MAIL AT Trent_Corken@oag.state.ok.us ON YOUR REQUEST, PLEASE LIST THE DESIRED RFP NUMBER, YOUR NAME, FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND FACSIMILE NUMBER.

EXHIBIT

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State of Oklahoma
Request for
Proposal
(RFP)

RETURN / MAIL SEALED

PROPOSALS TO:

Oklahoma Attorney General
Trent Corken, Office Administrator
2300 N. Lincoln Boulevard, Suite 112
Oklahoma City, OK 73105

Direct Inquiries To:

Kelly Burch
Chief, Environmental
Protection Unit
Phone: (405) 521-4274
Fax: (405) 528-1867

ISSUE DATE	BID NO.	TITLE PROFESSIONAL SERVICES CONTRACT	
NO PROPOSALS RECEIVED AFTER: January 23, 2003 5:00 PM Central Time		CONTRACT PERIOD: Indefinite	
FEDERAL EMPLOYER IDENTIFICATION NO. OR SOCIAL SECURITY:		INQUIRIES MUST BE RECEIVED BY 5:00 P.M. January 16, 2003.	
FIRM NAME:			
MAILING ADDRESS:			
CITY		STATE	ZIP
AREA CODE:	TELEPHONE NUMBER:	FAX NUMBER:	
	TOLL-FREE NUMBER:		
<p align="center"><u>THIS PROPOSAL IS INVALID IF NOT SIGNED AND NOTARIZED BELOW.</u></p> <p>_____, of lawful age, being first duly sworn, on oath says: 1. (S)he is the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among bidders and between bidders and State officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the bid to which this statement is attached; 2. (S)he is fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and has been personally and directly involved in the proceedings leading to the submission of such bid; and 3. Neither the bidder nor anyone subject to the bidders direction or control has been a party: a. to any collusion among bidders in restraint of freedom of competition or agreement to submit a bid at a fixed price or to refrain from submitting a bid; b. to any collusion with any State official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract, nor; c. in any discussions between bidders and any State official concerning exchange of money or other things of value for special consideration in the letting of a contract; d. to paying, giving, or donating or agreeing to pay, give or donate to any officer or employee of the State of Oklahoma, any money or other thing of value either directly or indirectly, in procuring the contract to which this statement is attached. If this bid and/or contract is for professional services as defined in Title 74 O.S. Section 85.2, the bidder and contractor further certifies that no person which has been involved in any manner in the development of this contract to which this statement is attached while employed by the State of Oklahoma shall be employed to fulfill any of the services provided for under this contract pursuant to Title 74 O.S. Section 85.42 as applicable.</p>			

STATE OF OKLAHOMA)
) ss.
 COUNTY OF OKLAHOMA)

Subscribed and sworn to before me this _____ day of _____, 2003.

My Commission Expires: _____

(SEAL)

Notary Public

**STATE OF OKLAHOMA
ATTORNEY GENERAL
REQUEST FOR PROPOSAL
LEGAL SERVICES CONTRACT
ENVIRONMENTAL PROTECTION UNIT**

1.0 Contract Overview

1.1 Purpose of Request for Proposal. The purpose of the Request for Proposal (RFP) is to contract with a single, experienced, highly qualified law firm to provide legal services to the State of Oklahoma, through the Office of Attorney General (hereinafter referred to as "STATE" or "ATTORNEY GENERAL"), in a cause of action involving interstate water pollution caused by land application of excess poultry waste as outlined in this RFP.

1.2 Statutory Authority. The ATTORNEY GENERAL is authorized to appear for the STATE and prosecute and defend all actions and proceedings in any of the federal courts in which the state is interested as a party pursuant to 74 O.S. 2001, §18(b)(A)(2), and is authorized to hire private attorneys under 74 O.S.2001, §21 b.

1.3 Objectives. The STATE desires to enter into a contract for legal services to:

1.4.1. Prepare, file, and maintain a cause of action in federal district court on behalf of the STATE at the direction of the ATTORNEY GENERAL against corporations responsible for causing pollution of the Illinois River watershed by generating and land applying excess poultry litter.

1.4.2. Prepare witnesses, exhibits and take and defend all necessary depositions in coordination with the ATTORNEY GENERAL. Retain expert witnesses and consultants necessary for adequate representation.

1.4.3. Draft pleadings and respond to all discovery requests in coordination with the ATTORNEY GENERAL.

1.4.4 Maintain any necessary appeals from a final ruling of the district court.

1.4 Caution to Offerors. Offerors are cautioned to read and thoroughly understand this solicitation in its entirety before submitting a proposal.

2.0 General Provisions

2.1 Definitions. The term "Offeror" as used herein shall mean the attorney or attorneys submitting a proposal to the STATE to provide the legal representation described in this RFP. The term "Contractor" as used herein shall mean the attorney or attorneys that enter into a contract for legal services with the STATE.

- 2.2 Oral Statements. No oral statement by any person shall modify or otherwise affect this solicitation or the resulting contract. All modifications to this solicitation and any resulting contract shall be made in writing.
- 2.3 Rejection of Offers. The STATE reserves the right to reject any and all offers and shall not be obligated to retain the services of any Offeror.
- 2.4 Expenses and Fees. Offeror shall provide a detailed proposal for reimbursement of costs and for any legal fees. The STATE will not be liable for payment of any funds except as set forth in the final contract executed by both parties.
- 2.5 Changes. Changes in the terms and conditions of the final contract may be made only by written agreement of the Contractor and the STATE.
- 2.6 Audit and Records. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such records are in written form, in the form of computer data, or any other form. The Contractor agrees that the STATE shall have the right to examine and audit all such records generated pursuant to or relevant to such contract. Contractor is required to retain all records relative to this contract for the duration of the contract and for a period of three years following completion and/or termination of the contract. If an audit, litigation or other action involving such records is started before the end of the three year period, the records are required to be retained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is longer. All records generated are property of the ATTORNEY GENERAL.
- 2.7 Inspection and Acceptance. The Contractor shall only tender for acceptance those services that conform to the requirements of the contract. The STATE reserves the right to review, within a reasonable time, any services that have been tendered for acceptance. The ATTORNEY GENERAL may require reperformance of nonconforming services at no cost to the STATE.
- 2.8 Assignment of Contract and Claims. The Contractor shall not assign this contract, an interest therein, or any claim under the contract to any party without the advance written approval of the ATTORNEY GENERAL.
- 2.9 Termination for Convenience. The STATE reserves the right to terminate this contract, or any part thereof, for its sole convenience. In the event of such termination, the Contractor shall stop all work thereunder effective on the termination date prescribed in the notice of termination and shall cause any and all of its subcontractors to cease work on or before the effective termination date.
- 2.10 Termination for Cause. The STATE may terminate the contract, or any part thereof for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms or conditions, or fails to provide the STATE with adequate assurances of

conforming future performance. In the event of termination for cause, the STATE shall not be liable to the Contractor for any termination costs or fees, and the Contractor shall be liable to the STATE for any and all rights and remedies provided by law. If it is determined that the STATE improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

- 2.11 Title. Title to items furnished by the Contractor shall pass to the STATE upon acceptance regardless of when or where the STATE takes physical possession. The Contractor shall be responsible for items furnished under the contract for which the Contractor retains title.
- 2.12 Compliances. The Contractor shall comply with all applicable federal, state and local laws, executive orders, rules and regulations applicable to its performance under the contract.
- 2.13 Governing Law. The conduct of the contract and any dispute arising therefrom shall be governed by the laws of the State of Oklahoma.
- 2.14 Hold Harmless. The Contractor shall hold harmless and indemnify the STATE, its officers, employees and consultants from and against any injury, damage, loss or liability to persons or property resulting from or arising out of the acts, omissions, liabilities, or obligations of the Contractor in the performance of this contract.
- 2.15 Subcontracts. The Contractor shall be completely responsible for the satisfactory performance of all subcontracted services, including adherence to the terms and conditions of the contract. The ATTORNEY GENERAL will retain the right to approve all subcontractors employed to assist in the performance of the contract. Any changes in the subcontracting firm or the nature of the work to be provided by the subcontractor shall be approved by the ATTORNEY GENERAL prior to making the change.
- 2.16 Severability. The terms and conditions of the contract are deemed to be severable one from the other, and any legal determination that one or more provisions is unenforceable or null and void shall have no effect on the remainder of the contract terms and conditions.
- 2.17 Entire Contract. The entire agreement shall consist of the RFP, the successful offer, including any amendments or negotiated changes, and the final contract document executed by both parties.
- 2.18 Order of Precedence. In the event of a conflict in wording between documents associated with the contract, the order of precedence shall be (1) the final executed contract, (2) the RFP, and (3) the Contractor's proposal including any amendments or changes.
- 2.19 Proposal Costs. The STATE shall not be liable for any costs associated with the Contractor's proposal.
- 2.20 Cooperation with Succeeding Contractor. At the conclusion of the contract, the Contractor shall fully cooperate with any succeeding Contractor in making the transition to the

succeeding contract in order to maintain effective representation of the STATE's interests.

2.21 Confidentiality. Information obtained by the Offeror in developing a proposal in response to this RFP shall be maintained as confidential to the maximum extent permitted by state and federal law.

2.22 No Guaranteed Recovery. It is fully understood that no guarantees have been made with regard to the amount of recovery, if any, which may be had in connection with the STATE's claim(s), and no representations have been made as to what amounts, if any, the STATE may be entitled to recover or may actually recover in this matter.

2.23 Attorney-Client Relationship. The Contractor shall be appointed as a Special Assistant Attorney General for the express purpose of representing the STATE with regard to the claims identified herein. Submission of a proposal shall give rise to an attorney-client relationship. Contractor shall represent the STATE under this agreement in accordance with professional performance and ethical standards.

2.24 Deviations. The Contractor shall deliver the services as offered and specified in the contract. Any deviations shall be approved or disapproved in writing by the STATE.

3.0 Statement of Work

3.1 Contract Requirements. Proposals shall address each of the following paragraphs in detail.

3.1.1 The Contractor shall provide legal representation to the STATE in preparing, filing and managing litigation in federal district court against six (6) poultry integrator corporations for pollution of the Illinois River watershed. All aspects of the legal representation will be overseen and approved by the ATTORNEY GENERAL. "Legal representation" shall include all necessary actions to competently prepare, file and manage the litigation including, but not limited to, witness interviews; document review; expert identification, retention and preparation; discovery; taking and defending depositions; legal research; drafting and filing pleadings; trial; and any necessary appeals.

3.1.2 The Contractor shall provide adequate personnel and attorneys to properly prepare, file and manage the litigation. Such personnel shall be qualified to provide competent representation to the STATE. Attorneys shall be licensed to practice law in Oklahoma state and federal courts. The Contractor shall provide a complete range of services and supporting items necessary for effective conduct of the legal representation.

3.1.3 The Contractor will provide a team of personnel that will effectively interface with the ATTORNEY GENERAL. The team shall possess appropriate seniority, experience, knowledge, skills, and availability to ensure effective working

relationships with the STATE and competent legal representation. All members of the proposed team shall be identified in the proposal along with a statement of their qualifications. Personnel shall not be substituted without prior approval of the ATTORNEY GENERAL.

- 3.1.4 The Contractor will identify an attorney to act as a case manager to carry out the representation. The identified attorney will coordinate all activities undertaken pursuant to the contract with the Chief of the Environmental Protection Unit of the Office of Attorney General. The ATTORNEY GENERAL retains the right to make all final decisions regarding the course of representation, and in the event of a conflict, the ATTORNEY GENERAL's decision will control the course of action pursued.
- 3.1.5 The Contractor shall provide highly effective and responsive overall management of its responsibilities under the contract including, but not limited to, ready access to the case manager and firm management if necessary; detailed upfront litigation strategy, timely delivery of services, flexibility in making mid-course changes, quality and continuity of staff; responsiveness to STATE concerns; and effective litigation preparation and management.
- 3.1.6 The Contractor shall meet with the ATTORNEY GENERAL or designee within seven (7) days after execution of the contract to receive pertinent information and discuss litigation strategy. The Contractor shall provide a comprehensive, detailed plan for conducting the "legal representation" as defined herein to the STATE for approval within thirty (30) days after the initial meeting.
- 3.1.7 The plan referenced in 3.1.6 shall include all tasks to be completed and an accompanying time schedule. The plans shall also include a staffing plan for the litigation, including subcontractors and experts, including contact information for the staff. The STATE reserves the right to approve the plan and all amendments, and to require modifications to the plan as a condition of acceptance. Acceptance of the plan, and any amendments, will be evidenced in writing to the Contractor. The Contractor shall update and keep the plan current.
- 3.1.8 The Contractor shall be prepared to file litigation at the direction of the ATTORNEY GENERAL within ninety (90) days after execution of the contract.
- 3.1.9 The Contractor shall provide legal services as set forth herein and as set forth in the final executed contract. All payments to the Contractor for legal services and expenses shall be in accordance with the fee agreement set forth in the final executed contract. The STATE shall not be liable for costs incurred or fees claimed in excess of the amount set forth in the final executed contract.
- 3.1.10 The proposal shall contain a negotiable fee agreement that may include: (1) a fixed payment amount for expenses and a capped contingency fee based on work

performed or statutory fees, or (2) a contingency fee equal to a percentage of the gross amount recovered and compensation for expenses not to exceed a percentage of the gross amount recovered, or (3) a combination thereof. The final executed contract shall include a schedule which details the method for calculating fees and expenses which includes the applicable hourly rate of each attorney, paralegal, legal assistant, or other person providing services under this proposal. The method for billing shall be negotiated and shall be set forth in the final executed contract. If no recovery is obtained, the Contractor will receive no fees.

- 3.1.11 The Contractor shall agree to advance the expenses it incurs pursuant to the contract which are associated with the "legal representation" as defined herein. None of the expenses will be reimbursed if counsel withdraws, the contract is cancelled, or if there is no recovery.

4.0 Instructions to Offerors

4.1 Proposal Submittal

- 4.1.1 Proposal and acknowledgment of any amendments to the RFP shall be submitted to the following address:

Oklahoma Attorney General's Office
Trent Corken, Office Administrator
2300 N. Lincoln Boulevard, Suite 112
Oklahoma City, OK 73105

- 4.1.2 Proposals and any amendments thereto shall be submitted in a sealed container. The exterior of the container shall display the name and address of the Offeror, the RFP number, and the date established for the opening of the proposals.
- 4.1.3 Offerors shall acknowledge receipt of any and all amendments to the RFP by signing and returning a copy of the amendment form. Acknowledgment may be included with the proposal or submitted separately. If submitted separately, the acknowledgment must contain the RFP number and opening date on the envelope.
- 4.1.4 The RFP Form shall be executed in the name of the Offeror, signed by an authorized person and notarized with full knowledge of all its provisions.
- 4.1.5 Offers shall be accepted and binding only after execution of a separate contract by both parties. The STATE reserves the right to reject any offer for any reason without limitation.
- 4.1.6 Proposals may be withdrawn or modified by written notice to the Office Administrator within forty-eight (48) hours after the closing date. Proposals not withdrawn become the property of the STATE at the time and date set for proposal

opening and the ATTORNEY GENERAL may keep this information confidential as permitted by state and federal law.

- 4.1.7 Questions about this RFP may be faxed to the Chief of the Environmental Protection Unit at (405) 528-1867. Requests for clarification must be received by 5:00 p.m., on January 16, 2003. A copy of any response to a request will be provided to each party on record as having been furnished a copy of this RFP.
- 4.1.8 Proposals shall be clear and concise yet provide sufficient detail for the ATTORNEY GENERAL to understand exactly what is being proposed. At a minimum, proposals shall address each paragraph contained in Section 3.0 and shall reference the corresponding RFP paragraph.
- 4.1.9 Proposals shall also include a Table of Contents, RFP Form, Transmittal Letter, Estimates of Staffing and Resource Needs, Identification of Subcontractors and Experts, Staffing Plan, Schedule of Fees, Alternative Fee Proposal, RFP Amendment Acknowledgment if applicable, Four Government or Corporate References, and Curriculum Vitae for the Firm and Individual Staff.
- 4.1.10 Offerors shall provide an original proposal and three (3) copies. Each shall be marked as original or copy.
- 4.1.11 In accordance with 74 O.S.2001, § 20 i, proposals shall include a request to be placed on the private attorney list and an application for approval of the proposed contract for legal services. This portion of the proposal will be subject to a separate approval process through the Litigation Division after selection of a proposed Contractor.

5.0 Evaluation and Award

- 5.1 The ATTORNEY GENERAL will use the following factors of equal importance in evaluating proposals: experience, qualifications, adequacy of staffing, reasonableness of fee agreement, and financial condition.
- 5.2 The STATE will evaluate the proposals and may schedule a meeting for the purpose of discussing proposal details. However, the STATE reserves the right to make an award without scheduling a meeting, therefore Offerors are encouraged to make their most advantageous and competitive offer in their original proposal.
- 5.3 Individual Offerors may be requested to provide clarifying or supplemental information. When requested, the information shall be submitted in writing to the Office Administrator within five (5) business days of the request. Failure to provide requested information in a timely or complete manner may result in rejection of the Offeror's proposal.